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South Carolina House of Representatives

Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

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Legislative Update

The Week in the House

Background

During the week just past the House moved briskly through several major pieces of legislation, including local government taxing powers, approval of a consolidation of the state's eminent domain procedure code, and agreement with the Senate on strengthening the Freedom of Information Act.

Local government finance powers

The item which attracted the major amount of attention during the legislative week of May 12 through 15 was H.2368, the local government finance act. The bill originally allowed counties and municipalities a range of options for additional taxes to supplement property taxes, but the Ways and Means Committee version had only a local sales and use tax in its version. The tax could range from 1/2 to one cent on gross sales.

Thus amended, the bill reached the floor of the House on Wednesday the 13th, where further amendments were considered (22 according to the *Journal*). Considered were a mandatory referendum by voters to approve the imposition of a tax, an advisory referendum, plans for allocation and distribution of revenues, use of increased funds to roll back local property taxes, and numerous other points. Perhaps the most significant amendment was the one which allows up to half of the revenue to be used to roll back property tax during the first year.

This property is condemned

Not the play by the late Tennessee Williams, nor the later movie version starring Natalie Wood and Robert Redford, but one effect of S.135 (Sen. Pope), which enacts the South Carolina Eminent Domain Procedure Code. This bill, which the House amended and approved on Thursday, brings together the various statutes regarding the method by which private property can be transferred to public use.

The measure provides a "uniform procedure for the condemnation of property by the State, its political subdivisions, and private entities," and requires the condemnor to make a fair and reasonable offer for the property, based on an accurate appraisal.

Freedom of Information—getting stronger all the time

On Thursday the House voted free conference powers to its side of the committee working out the two versions of the changes in the state's Freedom of Information Act. By the end of the legislative day the conference committee had completed its work, and the latest revision of the bill provides even more openness in government than the ones passed by the House or Senate.

For public employees, the bill would reveal all salaries over \$50,000; for salaries under \$50,000 and above \$30,000, the information would be released in a series of salary ranges, \$4,000 apart. Below \$30,000 the public information would be the salary schedule.

The bill specifically includes subcommittees, advisory committees "and the like of any such body by whatever name known," and it prohibits taking votes in executive session.

Certain exemptions are maintained. Information relative to luring new business or industry to South Carolina, for example, is protected. And persons who present gifts to public bodies can insist upon anonymity as a condition of the gift.

The measure will be considered by the House next week.

Ratified—at last!

A number of legislative measures which have been working their way through the General Assembly reached the status of ratification during the week of May 12. Many of these have been summarized in the *Legislative Update* and some have attracted notice among the press and public. Some of the more notable ratifications included the following bills.

Two measures relating to motor vehicle law: the first provides for a mandatory three-year suspension of driver's license for causing death or bodily injury while driving under the influence (S.100, Sen. J. Verne Smith), while the second stiffens the penalties for driving with a revoked or suspended license (S.89, Sen. Lourie).

In a related area, H.2050 (Rep. Kirsh) makes it illegal to fly a plane or act as a member of the flightcrew while under the influence of drugs or alcohol; soon it will be illegal to get high while high. And retail stores selling beer, wine or liquor will soon have to post a sign informing customers that it is illegal to purchase or possess those beverages if you're under 21 years.

The legal system was altered (at least slightly) by two bills that were ratified during the week. The first, H.2159 (Rep. Hearn)

will provide interpreters for the deaf in court proceedings; the second, H.2259 (Rep. Wilkins) makes it illegal to plant a phony bomb with the intent "to terrorize, frighten, intimidate, threaten, harass, molest, or annoy" a person.

And finally, state growth was the subject of S.627 (Sen. Waddell) which makes permanent the state Coordinating Council for Economic Development.

Legislation Introduced

Education

School employees can't be their own bosses (H.3143, Rep. M.D. Burriss). This bill would prohibit employees of a school district from running for election for the board of trustees for that school district. It would also prohibit them from serving on the board, should they manage to get there without being elected.

Home instruction (S.457, Sen. Giese). The Senate version of legislation that would set the standards for parents who wish to teach their children at home. The home instruction would have to be approved by the local district board of trustees. The following standards would have to be met:

1. The parent has at least a high school diploma or GED;
2. The instructional day is at least 4 1/2 hours (not counting lunch and recess) and the instructional year 180 days;
3. The course of study includes at least basic areas--reading, writing, mathematics, science, and social studies;
4. The parent keeps records of the progress of instruction, and these are available for inspection by school district--"upon reasonable notice;"
5. The students must have access to library facilities;
6. The students must participate in required standardized tests. (If the student scores below the standards set by the State Board of Education, the district will decide if the student needs additional instruction, through the public schools.)

If a home program does not meet the standards required, it has thirty days to correct the problems. If it does not, then the board of trustees can withdraw its approval of the home study program.

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The comparable House bill is H.2442 (Rep. Beasley). The requirements of this bill are:

1. Submission of a declaration of intent to use a home study program, listing the names and ages of students enrolled;
2. Parents who are teaching their own children must have at least a high school diploma or a GED; tutors must have at least a BA or BS college degree;
3. The program must include basic education in at least reading, language arts, math, social studies, and science;
4. The program must provide 180 days of instruction each year, at a minimum of 4.5 hours per day (with exceptions for physical restrictions on some children);
5. Attendance records must be kept and submitted on a regular basis to the local school superintendent; Home students are subject to a national, standardized test of their progress;
6. The home instructor must submit annual progress reports.

Health

AIDS and marriage license (H.3136, Rep. Harvin). Before a marriage license could be issued, the parties would have to show a physician's certificate that they are free from AIDS or other sexually transmitted diseases (STD). An exception would be made if one partner does not test free of a STD, but the other person is informed of this fact. An appeal to the court to overturn the denial of a marriage license would be provided for.

Highways and Transportation

Special license plates--not for Development Board (H.3132, Rep. J. Rogers). Some government automobiles have special license plates--MG, CG, RG, SG, ETC. Others do not: certain law enforcement vehicles, for example, are unmarked. This measure would also exempt automobiles used by the State Development Board from having the special, and easily identified, license plates.

Regional transportation authorities: Board membership (S.725, Sen. Mitchell). This bill would make adjustments in the membership of the governing boards of the state's regional transportation authorities. The members appointed by the local governments which participate in the authorities would be appointed according to the population of the area represented, if the financial contribution of the governments are in the same ratio. If the financial contributions and population sizes do not match up, then appointments will be made according to how much support each government gives to the transportation authority.

"Financial contributions" are defined in the bill as either cash, or the actual value of materials or in-kind services donated by the local governments.

If the transportation authority receives money from the Highway Department, then the legislative delegation would have the opportunity to appoint three additional board members. These would be selected by a majority of the delegation, "including the resident Senator."

Traffic accidents, alcohol and drugs (S.710, Sen. Lourie). This bill would require law enforcement officers to make a thorough investigation in cases of fatal traffic accidents involving minors where prior use of alcohol is suspected. The investigation would determine if alcohol was used, and if so, who supplied it to the minors. Similar investigations would be required in cases of fatal traffic accidents where illegal drug use was suspected; there would be no age limit in such cases, however.

State Legislators: What Do They Do?

When members of the state Houses of Representatives and Senates are not in their various capitols, debating, voting, drawing per diem, what do they do? What occupations do they hold back in their home districts? The National Conference of State Legislatures has recently compiled figures on just this question, and the answers are quite interesting.

According to NCSL, there are 6,367 male and 1,095 female legislators in our country. The largest single occupation represented is attorney, with 1,224 members being lawyers. Next comes business owner, claimed by 1,028 of our nation's lawmakers. Full-time legislators, a relatively new category, is third, with 858.

Next comes education, a category which has 577 Representatives and Senators. The business, and managerial class has 430 members in the state houses while real estate salespersons claim 314. Homemaker was the occupation listed by 143 lawmakers (none of them male, by the way), and NCSL could not get enough information to account for 229 of the denizens of our legislatures.

The largest number as noted above is in the attorney category. Nationwide it accounts for 16 percent of all legislators in the United States. The distribution is weighted heavily towards the states in the west and south of the country, where about 30 to 45 percent of the elected members are attorneys.

There are oddities, however, existing side by side. In Virginia the legislature is almost half lawyers (45 percent). In neighboring Delaware, not a single member of either House or Senate is an attorney.

Focus on Automobile Insurance

Background

The high cost of automobile insurance is an often-heard complaint among South Carolina motorists and law makers.. Over the years a number of efforts have been made in the legislature to improve the situation; there is even a Joint Legislative Automobile Liability Insurance Study Committee charged with looking into this tangled question.

This session, there is more legislation to be considered. A number of bills have been introduced into the House, but the most attention now is on S.593, which was recently reported out of the Labor, Commerce and Industry Committee, and which should soon receive its share of debate on the floor.

As tiers go by

The essence of S.593 is to set up a "two level", or "two tier" rating system, which hopes to set insurance premiums according to driving records. There would be the base rate, which would be charged to good drivers, and there would be the "objective standards rate," which would be 25 percent higher and would be applied to persons whose records indicate their status as "unsafe" drivers. Some examples would be: convictions for driving violations on three or more separate occasions during the past three years; two or more "chargeable" accidents within the past two years (these are accidents which result in bodily injury, death, or damage to property over \$400); or suspension of driver's license or vehicle registration during the past three years.

The bill also would set up the classification of "inexperienced driver" for persons with less than ten years' driving experience, but would allow them a credit of at least ten percent for successful completion of a driver's education course. Insurance companies would not be allowed to increase the rates of inexperienced drivers by more than one-third a year for the three years after the plan goes into effect.

In February, the Joint Legislative Automobile Liability Insurance Study Committee issued its report, and supported the two tier premium system. The Governor has also indicated his support for the bill.

Tiers of relief? Tiers of a clown?

Opinion has been divided on the automobile insurance reform bill. Supporters say that it is a necessary first step towards holding down auto insurance premiums (even if it won't actually reduce them) and that it is fair to both good and bad drivers, because rates will be based on "objective" standards. The State, for example, endorsed the plan, saying that the additional premiums "will amount to a stiff penalty for lousy drivers, but they deserve it."

Other reactions to the plan were definitely less favorable. A particular point of contention was that rates for good drivers would not go down—in fact, as the *Florence Morning News* wrote, "The bill only holds out the possibility of more moderate rises in insurance costs for good drivers. Big deal!"

No doubt the relative merits and demerits of the plan will receive full consideration during its discussion on the House floor. For what comfort it may be worth, House members should realize that South Carolina is not the only state caught in the auto insurance imbroglio, as the following survey shows.

New Jersey: State of Confusion

New Jersey has the unenviable distinction of having the highest auto insurance rates in the nation. In recent months efforts have been made to remedy that situation, but the proposed "solutions" have proven to be controversial—and, to some, confusing.

First, a special Senate committee on automobile insurance recommended a package to reduce premiums. After six months of hearings the lawmakers brought forth the following points:

--Raising the limit for lawsuits; current New Jersey law allows accident victims to sue for pain and suffering if medical expenses exceed a certain amount (\$200 or \$1,700, depending upon the policy selected). The minimum figure of \$200 would rise to \$500 under the Senate plan.

--Adopting a "verbal threshold," which limits the right to sue to cases where serious injury or death is involved. In return for giving up the more expansive right to sue, a motorist should receive a lower insurance premium.

--Eliminating the mandatory unlimited medical payment benefit of the personal injury part of the policy, and replace it with a \$10,000 medical payment cap. Motorists would have the option of buying more coverage if they want it.

—Setting up a medical fee schedule to treat car accident victims on a regional basis, with the schedule based on the "reasonable and prevailing fees" of 90 percent of the doctors within the defined region.

The committee report did not endorse putting a cap of liability awards in car accident cases, but it did maintain that "Many individuals are willing to trade their right to sue for pain and suffering for relatively minor injuries for a reduction in their insurance premiums."

The unsafe driver must pay

New Jersey has a Joint Underwriting Association (JUA), which provides coverage for persons unable to buy their auto insurance on the open market. One of the major problems facing the Garden State lawmakers is the running deficit of the JUA, which is projected to be \$2 billion in debt within three years. As part of the proposed reforms, the Senate committee made the following recommendations:

—Setting up a higher premium rate for bad drivers, who would be defined as those who have three accidents within three years, or accumulate a certain number of points against their license.

—Lower the amount of administrative funds collected by the state from the surcharges imposed on unsafe drivers; instead, this money would go into JUA.

—Increase fines of persons convicted of driving without insurance. Now at \$150 to \$300, the fines would be set at a standard \$300 for each offense.

—Not permit agents and brokers to take their commission "up front," but rather on premiums as they are collected. Now, according to the committee, agents take their full commission from the first payment, but many persons make only that first payment, and then allow the insurance to lapse.

—Require mandatory arbitration for all accidents causing \$20,000 or less in damage (the ceiling is now \$15,000).

—Provide discounts to motorists who install anti-theft devices or complete defensive driving courses.

Senate passes measure; crisis at the JUA

In October, 1986, the New Jersey Senate passed the proposed changes with some alterations, even though the lower house (the Assembly) indicated its serious reservations with the bill. Major criticism focused on the limit on medical benefits and the lack of a mandatory verbal threshold which would limit suits to accidents involving serious injury or death.

Before action could be taken on the bill, however, the state's automobile insurance system had to be bailed out. With the JUA running a deficit of \$900 million and sinking fast, the Department of Insurance in the winter of 1986 pushed for a relief package it had been working on for six months. Surcharges on some 520,000 bad drivers, increased rates for commercial vehicles, and reduced fees for brokers and insurance companies were part of the package.

The measure was bitterly opposed by insurance agents in New Jersey, who brought nearly 600 brokers by bus to the capital to lobby against the cut in commissions, from 11 percent to 8 percent over a three-year period. Supporters of the bill said it was either cut fees or impose a new surcharge on all New Jersey drivers (there are 3.8 million of them).

The bill was signed by New Jersey Governor Thomas Kean on January 12. The projected revenues for the JUA are \$275 million more per year.

And the rates just keep on rising

Unending are the woes of New Jersey motorists. While yet reeling from the insurance reform confusion of the fall and winter, a report was released showing that, for the fifth consecutive year, New Jersey had the highest average car insurance rates in the nation. In addition, the Garden State's motorists have seen their premium percentage rise by 50% during those five, bleak years.

Best's Insurance Management Reports, a financial reporting service, released the figures in mid-February. New Jersey drivers paid an average rate of \$607.27, which was the first time a state had broken the \$600 average premium barrier.

California: How you drive and where you live

The issue in California is also premium rates—but with a twist. In the Golden State insurance premiums can be based on either a person's driving record, or his or her residence. Persons living in high density, urban areas can end up with whopping payments—sometimes more than unsafe drivers are required to pay.

To take care of those drivers who cannot find insurance on the open market (they're everywhere), the state has CAARP, the California Automobile Assigned Risk Plan. Basically CAARP is a consortium of insurance companies who handle the uninsured drivers; motorists are assigned to the insurance companies according to the proportion of total business each company handles. Losses incurred by the company are borne by—you guessed it, each company's other customers. And losses there are, with CAARP paying out as much as \$1.74 in claims for each \$1.00 in payments.

Residence is a major factor in setting premiums, and one that has recently come to the attention of California policy makers. Insurance Commissioner Roxani Gillespie is pushing for a program that would cut insurance costs by up to 24 percent for inner-city drivers. Under Gillespie's plan, insurance companies who charged lower, marketplace rates for urban areas would get a proportional reduction in their CAARP participation.

The "territorial" rating system can have drivers in the cities paying up to one-third more than drivers in rural or suburban areas. In some cases, city drivers would be better off under the assigned risk program than on the open market. About 60 percent of the drivers in the assigned risk program are there because of their records; the rest are "drivers with good records who live in minority urban areas where insurers are reluctant to sell policies," according to the *LA Times*.

The rationale of the insurance companies is that drivers in congested cities have more accidents than those in the countryside, and therefore should pay for the higher claims costs. By the spring of 1987, the governing board of CAARP was planning to ask for a 50 percent increase in its rates, to come in two waves.

Missouri to require liability insurance

Last year Missouri enacted legislation requiring motorists to have liability coverage. The move prompted debate on territorial assignment of premiums, similar to the situation in California.

The law now requires that motorists have a minimum of \$25,000 to cover single deaths or injuries, \$50,000 for deaths or injuries involving two persons, and \$10,000 in vehicle damage coverage. Vehicles will no longer be registered without a signed statement of insurance coverage. It was estimated that as many as one-quarter of Missouri drivers had no liability insurance.

The requirement has caused some persons to fear urban residents will end up paying higher premiums. According to statements from some insurance company officials, this could well happen. "As a general rule, insurance losses have been greater in urban areas," the head of an insurance association group is quoted in the *St. Louis Post-Dispatch*. Some Missouri legislators support a move to require standard premiums in all areas, so that metropolitan drivers do not end up paying substantially more than suburban or rural motorists. So far, their efforts have been unsuccessful.

In North Carolina, points

Starting April 1 of this year, motorists in North Carolina had to worry about two sorts of points. The first are those given to them by the state Division of Motor Vehicles, which can lead to a

suspension of a driver's license, if enough points are accumulated. The second are "insurance points," given to persons who commit traffic violations; these points can raise an annual premium—sometimes raise it way up there.

New surcharges have been approved by the NC Reinsurance Facility, that inevitable state agency that must take care of motorists unable to find insurance elsewhere. In addition to surcharges, the points will cause a jump in the annual liability insurance rates: one point boosts the rate by 10 percent; two points makes it go up 40 percent; ten points causes a 350 percent rise in the liability insurance rate; and twelve points would mean an astronomical 450 percent increase.

The points are assigned for what many might consider "minor" violations, such as running stop signs. According to a report in the *Raleigh News and Observer*, a typical Tarheel motorist with no insurance points might pay \$398 per year in premiums. If he ran a stop sign and received a point, the premium would go up to \$505. Under the new surcharges and higher fees, the yearly premium would skyrocket to \$592 (expensive stop sign running, what?). More serious offenses could bring the premium up to \$2,311 per year.

Points stay on the driving record for three years.

Some comparative figures

Three items which are supposed to have a direct correlation to higher automobile insurance rates are number of drivers in a state, the miles they travel in a year, and the frequency with which they have accidents. Where does South Carolina stand with these figures?

For number of licensed drivers per 1,000 of the resident population, our state is near the bottom: 637 of us have licenses compared to 1,000 of us out there. New Jersey, which has the highest auto rates in the nation, leads all the rest: 766 drivers per 1,000 population. The national average is 657.

In per capita vehicle miles of travel, however, South Carolina jumps into the 16th slot, with 7,970 miles per head. The leaders are generally western states: Wyoming at 10,611, for example, Oklahoma, Montana and New Mexico all in the 9,000 column. But Georgia is in fifth place at 8,988 miles per capita, and tiny Vermont is in seventh. Vermonters drive a mind-boggling 8,763 miles per year per person. (Where do they go? A few miles in any direction and you've left the state.)

The states with per capita travel miles comparable to South Carolina can be found in the chart below.

Per Capita Vehicle Miles of Travel

<u>National Rank</u>	<u>State</u>	<u>Number of Miles</u>
11	Virginia	8,400
12	Colorado	8,138
13	Nevada	8,083
14	Oregon	7,986
15	North Carolina	7,981
16	SOUTH CAROLINA	7,970
17	Maine	7,970
18	California	7,874
19	Kansas	7,867
20	North Dakota	7,864
21	Missouri	7,811
22	Washington	7,797
23	Minnesota	7,796
24	Florida	7,747
25	Wisconsin	7,681

It is surprising to find out that on a per capita basis we in South Carolina actually travel more than the residents of California, where the official state symbol is reportedly a convertible with the top down.

Grimly enough, however, where South Carolina really hits the top of the charts is in traffic fatalities. Here we are lodged right below New Mexico and tied with Nevada for traffic deaths per vehicle miles. For every 100 million miles of motoring, South Carolina registers 3.5 deaths. Only New Mexico's 4.1 rate tops that. If there is a correlation between accidents, deaths and insurance rates, this could be an indication of why premiums in South Carolina are so high.

The national average is 2.6 deaths per 100 million vehicle miles per year. Those states that have figures above that are in the table below.

Traffic Deaths per 100 Million Vehicle Miles

<u>National Rank</u>	<u>State</u>	<u>Number of Deaths</u>
1	New Mexico	4.1
2	Nevada	3.5
3	South Carolina	3.5
4	Idaho	3.4
5	Mississippi	3.4

Traffic Deaths per 100 Million Vehicle Miles

<u>National Rank</u>	<u>State</u>	<u>Number of Deaths</u>
6	Alaska	3.3
7	West Virginia	3.3
8	Arkansas	3.2
9	Florida	3.2
10	Arizona	3.1
11	Montana	3.1
12	Tennessee	3.1
13	Wyoming	3.1
15	North Carolina	3.0
16	Louisiana	2.8
17	Alabama	2.7
18	Kentucky	2.7
19	Oregon	2.7
20	Utah	2.7

Source for figures: *State Policy Data Book, 1987* published by State Policy Research of Alexandria, Va.

Accidents within South Carolina

Leaving aside for the moment the comparisons between and among states, what figures are we talking about for accidents in South Carolina? The latest edition of the *Statistical Abstract* gives the numbers of motor vehicle traffic accidents, injuries, deaths and economic loss for 1985 (latest figures available).

During that year there were a total of 111,077 accidents, which left 32,388 persons injured and 949 persons dead. Economic loss amounted to \$615 million. See the table on the next page.

The alcohol connection

It might be interesting to note that of the 111,077 accidents, alcohol and/or drugs were known to have been involved in 11,936 of them. These figures are based on data based on traffic collision reports on which officers indicated alcohol or drug involvement.

Of these accidents, 354 of them resulted in fatalities, leading to the deaths of 385 persons. Injury-related accidents involving drugs or alcohol came to 3,823, with 5,926 persons being hurt. Total number of property damage accidents was 7,759.

Legislative Update, May 19, 1987

In short, then, while alcohol or drug-related accidents accounted for only 10.7 percent of total accidents, they accounted for nearly half of the fatal accidents: 40.6 percent.

*Motor Vehicle Traffic Accidents and Economic Loss
1985*

<u>County</u>	<u>Total Accidents</u>	<u>Loss in \$ Millions</u>
Allendale	216	\$ 3.4
McCormick	241	1.9
Calhoun	266	2.7
Saluda	312	2.4
Lee	357	2.5
Edgefield	389	13.0
Bamberg	405	2.5
Barnwell	406	2.9
Abbeville	407	3.4
Hampton	456	3.1
Marlboro	628	4.6
Clarendon	648	4.4
Fairfield	657	6.6
Jasper	668	5.9
Chesterfield	713	4.3
Union	720	5.1
Chester	768	5.8
Williamsburg	803	6.6
Newberry	832	5.8
Marion	924	7.5
Dillon	974	6.3
Kershaw	1,044	5.6
Colleton	1,256	6.9
Cherokee	1,290	9.1
Georgetown	1,311	8.2
Laurens	1,316	10.8
Oconee	1,326	7.0
Darlington	1,563	11.2
Lancaster	1,619	10.9
Greenwood	1,801	8.5
Pickens	2,047	11.2
Dorchester	2,115	13.0
Beaufort	2,390	11.6
Sumter	2,448	11.9
Orangeburg	2,671	15.5

*Motor Vehicle Traffic Accidents and Economic Loss
1985*

<u>County</u>	<u>Total Accidents</u>	<u>Loss in \$ Millions</u>
Berkeley	2,719	19.1
Aiken	3,392	18.4
Florence	3,714	26.4
York	4,003	23.9
Anderson	4,036	24.7
Lexington	5,078	25.7
Spartanburg	7,080	34.3
Horry	7,104	43.2
Greenville	11,539	46.4
Richland	12,889	56.1
Charleston	13,536	67.5
TOTAL	111,077	615.0

Conclusion

"Everybody thinks they are paying too much for auto insurance. It is true here, it is true in Illinois or Michigan." That's a quote from David Gates, the State Insurance Commissioner of Nevada. The newspaper story that carried the quote was entitled "Insurance costly for Nevada drivers." Substitute "New Jersey" or "California" or "South Carolina" or whatever state you choose, and that headline could be run in just about any newspaper in the country.

Now the question is: will the legislation pending before the South Carolina House help change that headline?